

PLEASE TAKE NOTICE that, upon the attached Declaration of Terence J. Rasmussen dated September 11, 2008, with supporting exhibits, and the accompanying Memorandum of Law, Defendants Dynex Capital, Inc., Merit Securities Corporation, Thomas H. Potts and Stephen J. Benedetti (collectively, “Defendants”), by counsel, will move this Court to dismiss this action, pursuant to Fed. R. Civ. P. 12(b)(6), Fed. R. Civ. P. 9(b), and the Private Securities Litigation Reform Act of 1995, 15 U.S.C. §§ 78u-4, 5, for failure to state a claim for securities fraud against the Defendants.

WHEREFORE, for the reasons stated herein and in the accompanying Defendants' Brief in Support of Their Motion to Dismiss Plaintiff's Second Amended Class Action Complaint, and any further briefs or documents filed or argument presented to the Court at any hearings on this motion, Defendants respectfully request that this Court dismiss the Complaint with prejudice.

Dated: September 11, 2008
New York, New York

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By: /s/ Terence J. Rasmussen
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CERTIFICATE OF SERVICE

I certify that on the 11th day of September, 2008, a true and accurate copy of the foregoing was served via the Court's ECF Filing System on:

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